

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**KEVIN FOLSE and  
OSCAR R. OREJEL,**

**Plaintiffs,**

**v.**

**No. 17-cv-0387 JB/SMV**

**D'ANGELO CHAPARO WILSON,  
AARON VIGIL, and  
DEPARTMENT OF CORRECTIONS,**

**Defendants.**

**ORDER TO SHOW CAUSE**

THIS MATTER is before the Court sua sponte under 28 U.S.C. § 1915. In their Complaint, Plaintiffs state:

After receiving notification of this lawsuit making it to the Court, Folse will file the \$350.00 filing fee. Enclosed is the \$50.00 filing fee to begin the process.

[Doc. 1] at 7, ¶ 12. The Court docket indicates that Plaintiffs have been notified of the Court's receipt of this lawsuit. The record indicates the Court did not receive \$50.00 from Plaintiffs when the Complaint was filed. Nor does it appear Plaintiffs have submitted the \$350.00 filing fee to the Court. Plaintiffs make reference to proceeding "informa poperis," *id.*, but they have not filed applied to do so.

Plaintiffs are prisoners in custody of the State of New Mexico at the Penitentiary of New Mexico. [Doc. 1] at 2, ¶¶ 3, 4. The Prison Litigation Reform Act, 28 U.S.C. § 1915(b) states "if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner ***shall be required to pay the full amount of the filing fee.***" 28 U.S.C. § 1915(b) (emphasis added). Plaintiffs have

previously been advised of their obligation to pay the filing fees under § 1915. *See Oscar Oregel, Kevin Folse v. FNU LNU, Bernalillo County Sheriff's Officers*, No. 17-cv-0566 SWS/MLC, [Doc. 2].

Plaintiffs are aware of their obligation to pay the filing fee for this proceeding, and have claimed they will pay, but have failed to pay or to file an application to proceed without prepayment of fees or costs. Plaintiffs' failure to pay the filing fees or submit a proper application to proceed *in forma pauperis* under 28 U.S.C. § 1915 constitutes a failure to prosecute this action and is grounds for dismissal under Fed. R. Civ. P. 41(b). *See* Fed. R. Civ. P. 41(b); *Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10th Cir. 2003). Plaintiffs will be required to show cause, within 21 days of entry of this Order, why this proceeding should not be dismissed for failure to pay the required fees or apply to proceed without prepayment of fees or costs. If Plaintiffs fail to show cause within 21 days, the Court may dismiss this proceeding without further notice.

**IT IS ORDERED** that Plaintiffs show cause, **within 21 days** of entry of this Order, why this proceeding should not be dismissed for failure to pay the required fees or apply to proceed without prepayment of fees or costs.



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**STEPHAN M. VIDMAR**  
**United States Magistrate Judge**